

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

RANDY LAVELL WILLIAMS,
ADC# 127318

PLAINTIFF

v.

4:14CV00155-BRW-JJV

KATHY BROWN

DEFENDANT

PROPOSED FINDINGS AND RECOMMENDATIONS

INSTRUCTIONS

The following recommended disposition has been sent to United States District Judge Billy Roy Wilson. Any party may serve and file written objections to this recommendation. Objections should be specific and should include the factual or legal basis for the objection. If the objection is to a factual finding, specifically identify that finding and the evidence that supports your objection. An original and one copy of your objections must be received in the office of the United States District Court Clerk no later than fourteen (14) days from the date of the findings and recommendations. The copy will be furnished to the opposing party. Failure to file timely objections may result in a waiver of the right to appeal questions of fact.

If you are objecting to the recommendation and also desire to submit new, different, or additional evidence, and to have a new hearing for this purpose before either the District Judge or Magistrate Judge, you must, at the time you file your written objections, include the following:

1. Why the record made before the Magistrate Judge is inadequate.
2. Why the evidence to be proffered at the new hearing (if such a hearing is granted) was not offered at the hearing before the Magistrate Judge.
3. The details of any testimony desired to be introduced at the new hearing in the form of an offer of proof, and a copy, or the original, of any documentary or other non-testimonial

evidence desired to be introduced at the new hearing.

From this submission, the District Judge will determine the necessity for an additional evidentiary hearing. Mail your objections and “Statement of Necessity” to:

Clerk, United States District Court
Eastern District of Arkansas
600 West Capitol Avenue, Suite A149
Little Rock, AR 72201-3325

DISPOSITION

Randy Lavell Williams (“Plaintiff”) filed this *pro se* action pursuant to 42 U.S.C. § 1983, alleging that Defendant Kathy Brown, Warden of the Omega Technical Violator Center, impermissibly altered his sentence from sixty (60) to one hundred twenty (120) days upon his arrival at the Omega Center (Doc. No. 2 at 4). Based on the nature of his claims, the Court entered an Order on May 15, 2014, asking Plaintiff to clarify whether he sought to pursue his claim under § 1983 or pursuant to habeas corpus (Doc. No. 6). Plaintiff was cautioned that his failure to respond to that Order could result in the dismissal of his claims without prejudice.¹ That Order was returned as undeliverable on May 27, 2014 (Doc. No. 7). On June 10, 2014, Plaintiff filed a Notice of Change of Address (Doc. No. 8) and the Clerk of Court re-mailed the Order to the address provided on June

¹The Court notes that it had already informed Plaintiff of his duty to comply with Local Rule of the Court 5.5(c)(2) in its order granting Plaintiff’s Motion for Leave to Proceed in forma pauperis (Doc. No. 5). Local Rule of the Court 5.5(c)(2), states:

It is the duty of any party not represented by counsel to promptly notify the Clerk and the other parties to the proceedings of any change in his or her address, to monitor the progress of the case, and to prosecute or defend the action diligently. A party appearing for himself/herself shall sign his/her pleadings and state his/her address, zip code, and telephone number. If any communication from the Court to a *pro se* plaintiff is not responded to within thirty (30) days, the case may be dismissed without prejudice. Any party proceeding *pro se* shall be expected to be familiar with and follow the Federal Rules of Civil Procedure.

Loc. R. 5.5(c)(2).

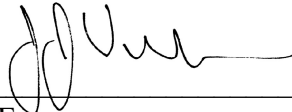
11, 2014. To date, however, Plaintiff has not responded.

In excess of fourteen (14) days have passed and Plaintiff has failed to respond to the Court's Order. *Pro se* litigants must still comply with all relevant rules of procedure. *See Faretta v. California*, 422 U.S. 806, 834-835 n.46 (1975). Here, Plaintiff has failed to diligently prosecute this action and the Court therefore recommends that his Complaint be DISMISSED.

IT IS, THEREFORE, RECOMMENDED THAT:

1. Plaintiff's Complaint (Doc. No. 2) be DISMISSED without prejudice;
2. The Court certify, pursuant to 28 U.S.C. § 1915(a)(3), that an *in forma pauperis* appeal from an Order adopting these recommendations would not be taken in good faith.

DATED this 16th day of July, 2014.



JOE J. VOLPE
UNITED STATES MAGISTRATE JUDGE